



TENNESSEE

Real Estate Appraiser Report

Real Estate Appraiser Commission

Tennessee Department of Commerce & Insurance

Fall 2004

Vol.14 No.2

Chairman's Report

John Bullington



As my term as Chairman of the Real Estate Appraiser Commission begins, for the year 2004-2005, many interesting challenges are being presented especially for the practicing appraiser. Some of the most important issues considered are from the Appraisal Foundation.

The Appraiser Qualifications Board (AQB) has adopted changes to the appraiser qualifications concerning education which will become effective on January 1, 2008. The new education requirements will be:

1. License – 150 hours with specific coverage of multiple topics* but no college level course requirements.
2. Certified Residential – 200 hours with specific coverage of multiple topics* and 21 semester credit hours from an accredited college or university covering the following subject courses: English Composition; Principles of Economics; Finance; Algebra, Geometry or higher mathematics; Statistics; Computers, Word Processing, Spreadsheets; and Business or Real Estate Law. In lieu of the required courses, an Associate degree will qualify.
3. Certified General – 300 hours with specific coverage of multiple topics* and 30 semester credit hours from an accredited college or university covering the following subject courses: English Composition; Micro and Macro Economics; Finance; Algebra, Geometry or higher mathematics; Statistics; Computers, Word Processing, Spreadsheets; Business or Real Estate Law; and two elective courses in accounting, geography; Ag-economics; business management; or real estate. In lieu of the required courses, a Bachelors degree will qualify.

*Refer to the *Real Property Appraiser Qualification Criteria* for details.

Each of the levels will also require the 15-hour USPAP course or its equivalent.

These changes are designed to ensure professionalism and improve competency in the real estate appraisal field.

The Appraisal Foundation encourages all of us to be aware of these impending changes. Please take the time to read the revisions in their entirety at their web site (www.appraisalfoundation.org).

Not only does education occur in the classroom setting, but also as a practical exercise. The sponsor bears a great deal of responsibility for training. The sponsor has an extremely important responsibility to train the trainee in the most professional way of appraisal practice.

At the present time, sponsoring appraisers are required to adhere to USPAP, like all other licensed or certified appraisers, and they are required to ensure that appraisal reports prepared by a trainee are done under the sponsor's direct supervision in order to cultivate the trainee's practical application of appraisal principles and procedures. The Commission has seen many high quality appraisals from trainees during its experience reviews which can be attributed, in part, to excellent sponsorship of the trainees. I strongly encourage all trainees to schedule an interview with the Commission after receiving 500 hours of experience.

The Appraisal Standards Board (ASB) has issued an exposure draft regarding revisions to USPAP relating to the scope of work.

The proposed changes to the USPAP are:

1. Deletion of the Departure Rule
Changes to core Standards required for credible assignment results makes the Departure Rule irrelevant.
2. Elimination of the Label "Complete Appraisal" and "Limited Appraisal".

Since these terms are defined relative to the use of the Departure Rule, they will be meaningless without the Departure Rule.

3. Introduction of a Definition for "Credible"

Because a clear understanding of "credible" is central to determining the appropriate scope of work in an assignment, the ASB believes that a definition is necessary.

4. Introduction of the SCOPE OF WORK RULE

The proposed SCOPE OF WORK RULE establishes a core foundation for all development requirements, with disclosure in the report focused on a description of the scope of work rather than the use of labels.

5. Elimination of the Labels "Binding Requirement" and "Specific Requirement"

This will eliminate the existing situation where some requirements are not required when the DEPARTURE RULE is invoked. The Standards Rules will simply state what an appraiser is required to do.

6. Modification of STANDARDS 1, 3, 4, 6, 7 and 9

Proposed changes will require modification of the development Standards for appraisal, appraisal review, and appraisal consulting assignments.

USPAP standards are guidelines for appraisers and those guidelines can be fleshed out through the use of definitions. The proposed elimination of labels in USPAP may also serve to strengthen the guidelines making USPAP easier to understand and apply to practice of real estate appraisal.

Your Commission is charged with protecting the public welfare while giving equal and fair treatment to each case brought before it. The Commission and staff are striving to do just that.

GUIDE TO UNDERSTANDING APPRAISAL & REPORTING OPTIONS

Mark Johnstone

The phone rings and you answer. It is a new client calling and they say those magic words every fee appraiser loves to hear. "I need to order an appraisal and can you give me a fee?"

Then they say the words we don't like hearing, "We are closing in two weeks and I need the appraisal ASAP." Well that's a story for another day.

My response to the first question is, "What kind of Appraisal and Report Type do you need ? ". They respond, "You know the typical kind." Thus begins the education process. Before an appraiser accepts an assignment, two issues must be clarified: 1) Will the appraisal be complete or limited?, 2) Will the appraisal report be a self-contained, summary, or restricted use? A common misunderstanding exists between types of appraisals and various report options.

First, let's begin with types of appraisals, limited appraisals vs. complete appraisals. A limited appraisal is an assignment that calls for something less than, or different from, the work that would otherwise be required by specific guidelines or the process of developing an opinion of value resulting from invoking the Departure Provision of USPAP. Standard 1 of USPAP details sections which departure is permitted.

The report of a limited appraisal must contain a prominent section which identifies the extent of the appraisal process and the departure. One example is when an appraiser uses only one or two of the three traditional approaches to value. Another is when an appraiser does not inspect the interior of the improvements. A third example is when an appraiser provides a value estimate that reflects a property as though it does not have an easement when an easement known to affect the property exists. If you are not departing from USPAP, then it is a complete appraisal. Otherwise, it is limited and should be properly labeled in the appraisal report.

Secondly, we identify what type of appraisal report the clients want. An appraisal report can be categorized as a self-contained appraisal report, a summary appraisal report, or a

restricted use appraisal report. The primary difference among the options is the use and applications of the terms "describe", "summarize", and "state." Describe is used to connote a comprehensive level of detail in the presentation. Summarize is used to connote a minimal level of information. Advisory Opinion 11 (USPAP 04) has an excellent comparison that outlines the differences. An easy illustration I use on occasion is the process of getting from Point A to Point B.

Report Options	Point A	Point B
Self-Contained	A-----B	
Summary	A - - - - - B	
Restricted Use	A	B

Regardless of which type of report is produced, the appraiser must still consider all information required to develop the appraisal. Except to the degree that there is departure, all of the pertinent data, reasoning, and analyses must be retained for future reference -- either in the report or in the appraiser's work file (file memoranda). It should be noted that in the above illustration with the analysis being the same (i.e. complete or limited) and with Point B being value estimate, Point B remains the same in all three reporting options.

The appraisal development process can be combined to allow six different appraisal products as shown below.

DEVELOPMENT PROCESS	REPORT TYPE
Complete Appraisal	Self-Contained Summary
	Restricted Use
Limited Appraisal	Self-Contained Summary
	Restricted Use

For example, a Fannie Mae Form 1004 (URAR) on a single-family residence in a primarily owner-occupied neighborhood (where the Income Approach is not applicable) using the Cost and Sales Comparison Approaches only is a Complete Appraisal in a Summary Appraisal Report. A Fannie Mae Form 2055 on a single-family residence using the Sales Comparison Approach only is a Limited Appraisal in a Summary Appraisal Report. A land form on a single-family residential lot using the Sales Comparison Approach only is a Complete Appraisal in a Summary Appraisal Report as the Cost and Income Approaches to value are not applicable. On commercial assignments simply find out from the lender what their needs are and prepare and label the reports appropriately.

The one size fits all approach doesn't provide the best alternative for our clients. By mastering the types and options available to us, we can offer better service to our clients on a daily basis.

* Resources for this article include [USPAP 04](#) and [Understanding Limited Appraisals and Appraisal Reporting options](#) from AI.

SEVEN-HOUR NATIONAL USPAP COURSE REQUIRED

Each licensee and certificate holder shall complete the seven (7)-hour National USPAP Course during each licensee or certificate holder's respective renewal cycle in order to meet the continuing education requirement. The Appraiser Qualifications Board (AQB) implemented this requirement beginning January 1, 2003. All licensees and certificate holders, regardless of license expiration date, must take the seven (7)-hour course by December 31, 2005. According to AQB guidelines, the fifteen (15)-hour USPAP Course will not meet your continuing education requirement if taken after December 31, 2004. However, applicants for licensure or certification are still required to take the fifteen (15)-hour USPAP Course and successfully complete the examination at the conclusion of the course in order to meet the qualifying education requirement.

If you should have any questions regarding your status in regard to the USPAP National Update course, please fax a request for this information to 615-253-1692, and we will fax the information back to you within two (2) business days.

APPRAISAL STANDARDS BOARD USPAP Q's and A's

Question: My client has asked that I provide a draft of my appraisal report prior to issuing the report in final form. Is this permitted under USPAP?

Response: USPAP does not explicitly define or address drafts of reports. When clients, other intended users, and appraisers use the term "draft," they may mean many different things, from preliminary spreadsheets to a written document that contains all that will be in the "final" report except it is labeled as "draft" and does not contain signatures. Report drafts have traditionally been part of certain types of appraisal practice but have never been considered acceptable in other types of appraisal practice.

State-regulated appraisers should be aware of applicable state laws and regulations. Many laws define a "report" as "any communication, written or oral, of an appraisal."

Whatever a "draft" may be in a particular context, it would always be part of "appraisal practice," because it is a valuation service provided by an appraiser. When performing a service that is considered appraisal practice but for which there are no applicable Standards Rules, an appraiser must comply with the PREAMBLE and the Rules (ETHICS RULE, COMPETENCY RULE, JURISDICTIONAL EXCEPTION RULE, AND SUPPLEMENTAL STANDARDS RULE).

The second sentence of the PREAMBLE states "*It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.*" Additionally, the ETHICS RULE states that, "*An appraiser must not communicate assignment results in a misleading or fraudulent manner.*" Therefore, if an appraiser communicates with intended users prior to completion of an assignment, the communication must not be misleading.

The purpose of issuing a "draft" cannot be to allow the client to improperly influence the appraiser.

Question: I was asked to appraise a single-family residence for refinancing. I am aware that the property had been previously listed but did not sell. During my data investigation and analysis, I noted that the owner's

"estimated value" was \$375,000. When I looked up the listing history, I found it had been withdrawn from market at the asking price of \$325,000. What are my obligations under USPAP regarding a withdrawn or expired listing of the subject property?

Response: Standards Rule 1-5(a) states that in developing a real property appraisal, an appraiser must, if such information is available to the appraiser in the normal course of business: *analyze all agreements of sale, options, or listings of the subject property current as of the effective date to the appraisal.* (Bold for emphasis.)

Therefore, there is not a specific requirement in Standards Rule 1-5(a) to consider and analyze a withdrawn or expired listing of the subject property, prior to date of the appraisal.

However, any prior listing of the subject property (as of the effective date of the appraisal) might be significant in that it indicates the property's availability in the market and the market reaction to that availability. Likewise, agreement of sale and options are generally significant to the appraisal problem in that they involve a "meeting of the minds," relating to the property's value, of the potential buyer and seller.

In the development of an appraisal, an appraiser is required under Standards Rule 1-1(b), to *not commit a substantial error or omission or commission that significantly affects an appraisal.* If information about a withdrawn or expired listing is known by the appraiser and that information is relevant to the appraisal problem, it must be considered.

Question: When an appraiser is asked to value a significantly large group of similar or like items, does USPAP require that the appraiser follow STANDARD 6 for mass appraisals?

Response: No, USPAP does not require that STANDARD 6 be followed in such cases. Mass appraisal, for which standards are addressed in STANDARD 6, is an appraisal method. USPAP does not dictate the use of any particular method or technique in any particular assignment or under any particular set of circumstances. While mass appraisal methods may be helpful in the appraisal of large numbers of similar assets, whether its use is appropriate in a particular assignment would depend on such things as assignment conditions, the intended use of the appraisal results,

and, at times, agreement with the client.

Question: Is there any connection between the application of STANDARD 6 for mass appraisals and the application of a blockage discount?

Response: No. There is no connection between the application of mass appraisal methods, as addressed in STANDARD 6, and the application of a blockage discount. A blockage discount may be applicable when the appraisal problem being addresses indicates an assumption that a large number of similar assets would be offered for sale on the market at once. Under some circumstances, this would create an oversupply, which would depress the value of the assets.

Whether the application of a blockage discount is appropriate depends on many factors, including the intended use of the appraisal, the definition of value, the conditions of the sale assignment, the relevant characteristics of the assets such as their nature, and the market for those assets.

Question: Does USPAP offer guidance in how to calculate an appropriate blockage discount?

Response: No. USPAP focuses on appraisal methodology or how to perform calculations. USPAP does not require that an appraiser be competent (see the COMPETENCY RULE) and states, in various Standards Rules, that an appraiser must "*be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.*"

The concept of the compilation of the assets appraised is addressed, for example, in Standards Rule 1-4(e), which states: *An appraiser must analyze the effect on value, if any, of the assemblage of the various estate or component parts of a property and refrain from valuing the whole solely by adding together the individual values of the various estates or component parts.*

Standards Rule 6-2(i)(i) states that, in appraising real property, an appraiser must "*identify the appropriate market area and time frame relative to the property being valued.*" Standards Rule 6-2(i)(v) requires that the appraiser "*identify and analyze whether an appraised physical segment contributes pro rata to the value of the whole.*" Standards Rule 6-2(m) requires that an appraiser "*analyze the relevant economic condi-*

tions at the time of the valuation, including market acceptability of the property and supply, demand, scarcity, or rarity.”

Question: I am considering the sale of my appraisal practice. What are my USPAP obligations regarding confidentiality and record keeping?

Response: In the sale of an appraisal practice, the selling appraiser must comply with the Confidentiality and Record Keeping sections of the ETHICS RULE. The Confidentiality section of the ETHICS RULE states: *An appraiser must protect the confidential nature of the appraiser-client relationship. An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment. An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons of specifically authorized by the client...*

The Record Keeping section of the ETHICS RULE states: *An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.*

The selling appraiser can retain possession of the workfiles to satisfy confidentiality and record keeping obligations. This would also satisfy any client-confidentiality agreements and applicable privacy laws and regulations.

The selling appraiser must adhere to the requirement to (1) protect appraiser-client relationship and (2) not disclose assignment results and confidential information to anyone other than the client and persons specifically authorized by the client. This can be accomplished by seeking client authorization to disclose assignment results and confidential information that would be part of the workfile. Providing the acquiring appraiser with access to the selling appraiser's workfile's without client authorization is a violation of the Confidentiality sections of the ETHICS RULE.

With client authorization, the selling appraiser can provide the acquiring appraiser with access to the selling appraiser's workfiles. However, the selling appraiser should also consider the impact of applicable privacy laws and regulations.

To comply with the Record Keeping section of the ETHICS RULE, the selling appraiser should make

appropriate workfile retention, access, and retrieval as part of sale terms.

Question: I am considering the purchase of another appraiser's appraisal practice. What are my USPAP obligations regarding record keeping and confidentiality?

Response: The acquiring appraiser has general USPAP obligations to protect public trust in appraisal practice. The PREAMBLE states: *The appraiser's responsibility is to protect the overall public trust and it is the importance of the role of the appraiser that places ethical obligations on those who serve in this capacity.*

The ETHICS RULE states: *To promote and preserve the public trust inherent in professional appraisal must observe the highest standards of professional ethics.*

In the sale of an appraisal practice, the acquiring appraiser should respect the selling appraiser's obligations under the Confidentiality and Record Keeping sections of the ETHICS RULE.

The acquiring appraiser does not have an appraiser-client relationship with the clients of the selling appraiser, but the acquiring appraiser's obligation to protect public trust creates a responsibility when access is provided to another appraiser's workfile. The acquiring appraiser should treat the acquired assignment results and confidential information in the workfiles in compliance with USPAP.

The acquiring appraiser should honor the workfile retention, access, and retrieval arrangements made by the selling appraiser in compliance with the Record Keeping section of the ETHICS RULE.

Question: Fannie Mae recently issued several new test appraisal forms. Do these new forms comply with USPAP?

Response: It is the position of the Appraisal Standards Board that appraisers comply with USPAP, not forms. Each assignment is different, and no form could cover all USPAP requirements for all assignments. Appraisal forms are simply tools to assist in organizing the reporting of assignment results.

It is the responsibility of the appraiser to properly develop an appraisal, and to properly report the assignment results. A template or form may or may not adequately report the assignment results. It may be necessary for the appraiser to supplement a form with addenda to comply with USPAP requirements.

Fannie Mae has requested that all interested parties provide comments on the test forms ([test appraisal forms@fanniemae.com](mailto:testappraisalforms@fanniemae.com)) prior to the comment deadlines of September 15, 2004, for the first set of forms and October 1, 2004, for the second set of forms. The Appraisal Standards Board intends to provide comments to Fannie Mae prior to the published deadlines.

Question: A local lender asked me to appraise only a 5-acre portion of a 62-acre parcel, stating that Fannie Mae will lend on no more than 5 acres. Am I permitted to comply with this request?

Response: Standards Rule 1-2(e)(v) states that the subject of an assignment may be a physical segment of a property. However, appraisers must also comply with any supplemental standards that might apply (see SUPPLEMENTAL STANDARDS RULE).

If the assignment requires compliance with supplemental standards published by *Fannie Mae Handbook for Appraisers*: “Some appraisers report that they have been asked to appraise only a portion of a larger site: for example, the borrower owns a 30-acre site and you are asked to appraise only five acres and the property improvements. Fannie Mae considers this an unacceptable appraisal practice...”

Failure to recognize this supplemental standard would be a violation of the ETHICS RULE or COMPETENCY RULE.

Question: What must be in the workfile when an appraiser issues an oral report?

Response: The Record Keeping section of the Ethics Rule requires that the workfile include: the name of the client and the identity, by name or type, of any other intended users; true copies of any written reports, documented on any type of media; **summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification**; and all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation. (**Bold added for emphasis**)

The Comment in the Record Keeping section of the ETHICS RULE also states, in part: A workfile must be

in existence prior to and contemporaneous with the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.

Question: Is it acceptable to “create” a comparable sale by combining the purchase price of the land with the subsequent cost to build the improvements, for an indicated “sale price?”

Response: Misrepresenting that a comparable sale for a price that is a combination of the cost paid for the land plus the cost to build the improvements without disclosing the true nature of the transactions, is misleading and is a violation of USPAP.

In addition, for assignments prepared in accordance with Fannie Mae guidelines, supplemental standards issued by Fannie Mae state the following: *“...in no instance may the appraiser create comparable sales by combining vacant land sales with the contract purchase price of a home (although this type of information may be included as additional supporting documentation).”*

Question: Are appraisers required by USPAP to disclose receipt of things of value of an appraisal assignment in the appraisal report?

Answer: Yes. The Comment to the Management section of the ETHICS RULE states that: *Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated.*

Question: a) Jim, an independent contractor, works for my appraisal company on a regular basis. I have always kept all appraisal file documentation (including hard copies of appraisal reports, field notes, drawings, etc.) at my office. Now Jim wants to keep the files relating to his work in his own possession. Under USPAP, which appraiser should keep the workfile?

b) Is the Record Keeping section of the ETHICS RULE upheld if an institutionally employed appraiser ensures that his organization retains copies of his appraisal work for five years? Or, must the appraiser also maintain a personal file of all work performed?

c) A client's attorney requested that I supply all of my files/records regarding an assignment. Can I do this and still be in compliance with the record

keeping requirements for USPAP? Also, what must I retain in my files as proof that the files are now the responsibility of the attorney? Will a simple letter from the client be sufficient?

Response: According to USPAP, the **appraiser**, not the appraiser's employer or client, is ultimately responsible for the retention of the workfile for the prescribed period. (See Record Keeping section of the ETHICS RULE.) An appraiser who is employed by, or works in conjunction with another party must make arrangements with that party to protect and preserve the workfile, and to allow the appraiser to make the workfile available to other parties (e.g., state appraiser regulatory agencies) when required by due process of law.

There are a number of ways an appraiser who works for or with another party can ensure that files are retained so that the appraiser can have access to the files to meet the requirements of USPAP's ETHICS RULE. For example, an appraiser and his employer or colleague may agree that the files will remain in the employer's or colleague's custody for the duration of the requisite retention period and that the appraiser will have access to those files, if needed.

USPAP does not dictate the form or format of workfile documentation. It is not necessary to include original documents in the file; photocopies and electronic files are acceptable as “true copies”. Because there have been cases where employers and others have denied appraisers access to workfiles, an appraiser may wish to make and retain copies of workfiles. However, USPAP does not address any specific manner by which an employer or contractor and appraiser should handle record retention. This is a business matter, which should be arranged in the context of the employer-or contractor-appraiser relationship.

By the same token, provision of the workfile to a duly authorized party, such as a client's attorney could be, is permitted by USPAP. However, this does not relieve the appraiser of the responsibility for that workfile. At no time may an appraiser abdicate his or her responsibility for a workfile. Therefore, when an appraiser relinquishes possession of a file to a client or the client's representative, the appraiser should retain either a copy of the workfile or written reference to an agreement with the client that the appraiser will have access to the workfile if the need arises.

Question: What is the difference between a client and an intended user?

Response: The term “Client” is defined in the DEFINITIONS section of USPAP as *the party or parties who engage an appraiser (by employment or contract) in a specific assignment.* The term “Intended User” is defined as *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report, by the appraiser on the basis of communication with the client at the time of the assignment.* Eventual receipt of a copy of an appraisal, appraisal review, or appraisal consulting report does not make the recipient an intended user. To be an **intended user** the recipient must be **identified** as such by the **appraiser**.

Question: Frequently, the borrower in a lending transaction is provided with a copy of the appraisal report; and in some cases, the appraiser knows that the borrower will be receiving a copy of the appraisal report. When the appraiser is aware that the borrower or any other third party will receive a copy of the appraisal, does this make that third party an intended user?

Response: No, the fact that a borrower or anyone else receives a copy of the appraisal report does not make them an intended user. The concept of an “intended user” in USPAP is framed within the context of the appraiser-client relationship. An “intended user” is defined in USPAP as follows: *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.* There are several things to note in this definition. First, intended users of the appraisal report must be identified by the appraiser. Secondly, this identification is made at the time of the engagement process so the appraiser can make a prudent judgment about the scope of work to apply in the assignment and the level of detail to include in the report.

It is also worth noting that the concept of “intended use” and “intended users” are related to the purpose of the assignment. Appraisal reports for loan transactions are typically used to substantiate real property value as underlying collateral for a particular loan. The fact that the lending institution is required by law or regulation to make certain disclosures

to the borrower about the loan and the basis for the loan decision does not alter the purpose, the intended use, or the intended users of the appraisal assignment.

SMT-9 further clarifies this issue by stating; *A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship. Parties who receive a copy of an appraisal, appraisal review, or appraisal consulting report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless the client specifically identifies them at the time of the assignment.*

Question: The terms “recertification of value” and “appraisal update” are often used interchangeably. Do they have the same meaning?

Response: No, these terms do not have the same meaning. The terms “Update” and “Recertification of Value” are discussed in Advisory Opinion 3 (AO-3). An “update” is a new appraisal assignment involving a property that was previously appraised. An Update is subject to the same USPAP requirements as any other appraisal assignment.

A “Recertification of Value” is performed to confirm whether or not the conditions of a prior assignment have been met. One example of a “Recertification of Value” is a “Final Inspection”. When an appraiser completes a “Final Inspection,” he is confirming whether conditions in an assignment have been met.

“Final Inspections” are commonly used in the case of proposed construction where an appraisal is completed subject to completion per plans and specifications. See AO-3 for further advice on updates of prior assignment.

Question: Appraisers are receiving conflicting advice regarding the requirements to provide an “as is” value. Can the Interagency Work Group provide guidance on exactly when an “as is” value is required and when it is not?

Response: (from the Interagency Work Group): *“The requirement for an “as is” value is an implied element in the minimum appraisal standards listed in the agencies’ appraisal regulations. Under these standards, an institution must analyze and report appropriate deductions and discounts*

for proposed construction or renovation, partially leased buildings, non-market lease terms, and tract developments with unsold units.

The agencies’ appraisal regulations require an appraisal report to include an “as is” current market value when an institution finances: The proposed construction or renovation of an existing property. A property that has not met its leasing goals (non-stabilized). A property with non-market lease terms (concessions that impact cash flow). A subdivision or tract development with unsold units.

If a transaction does not include any of these types of financing situations, then an “as is” value is not required. For example, in financing the purchase of an existing home, there typically would be no need to apply deductions or discounts to arrive at the market value of the property since the institution’s financing of the purchase does not depend on events such as further development of the property or the sale of units in a tract development.”

Question: The Management section of the ETHICS RULE requires an appraiser to disclose, ...fees, commissions, or things of value...paid in connection with the procurement of an assignment. If a referral fee was paid in conjunction with an assignment, must the amount of the fee be disclosed, or is it sufficient to simply disclose that a fee was paid?

Response: Disclosing the fact that a payment was made in the appraisal certification and any transmittal letter where the conclusions are stated is sufficient to meet the requirement. However, this is a minimum requirement and does not prohibit full disclosure of the amount of the fee.

Question: I am a licensed trainee with six months of experience. My supervisory appraiser recently deemed me competent to perform inspections on my own; however, many of our clients require the supervisory appraiser to physically inspect the property as well. If I do the inspection by myself but take numerous representative photos of the interior of the subject property, may my supervisory appraiser check the box indicating that he “Did Inspect” the interior of the property?

Response: No. A physical inspection of the interior of the property is not the same as a physical inspection of

photographs of the interior of the property. It would be misleading for an appraiser to indicate that a physical inspection was performed when in fact the appraiser viewed photographs of the property. An appraiser who only inspects photographs of a property, but signs a certification indicating that he or she physically inspected the subject property, is in violation of USPAP’s prohibition against the communication of a misleading or fraudulent report (Conduct section of the ETHICS RULE).

Question: I have been looking for new clients and found that many request sample appraisals for review, but I’m concerned that I would be in violation of appraiser-client confidentiality by providing them. To alleviate this problem, I’m considering including the following disclaimer in the “fine print” of my reports:

“The appraiser reserves the right to utilize this report in its entirety as sample work for the purpose of soliciting prospective clients unless written refusal is received from the client.” Does USPAP allow me to do this?

Response: No. The client, not the appraiser, determines who may receive the appraisal report. The Confidentiality section of the ETHICS RULES states, in part:

An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client...

Including a statement indicating that the report may be used as a sample does not constitute client authorization to distribute copies of the report.

One solution is to obtain client authorization to use each report as a work sample. An alternative solution may be to redact all confidential information from the report before providing it as a sample.

As stated in the Comment following the above reference text: Comment: When all confidential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

Chairman John Bullington congratulates outgoing Chairman Sam Pipkin for his outstanding service during the past year.

Members of the Commission

John Bullington, Chairman
Johnson City

Jerry Shelton, Vice Chairman
Atwood

Sam Pipkin, Appraiser Member
Knoxville

Luther Bratton, Appraiser Member
Portland

Dr. Richard Evans, Educator
Germantown

Doug Blackburn, Appraiser Member
Franklin

Mark Johnstone, Appraiser Member
Jackson

Carnell Scruggs, Public Member
Nashville

John Holsclaw, Public Member
Johnson City

Staff

Sandra S. Moore, Administrative Director

Edith Johnson, Administrative Assistant

Bettye Chasteen, Administrative Assistant

Dorris O'Brien, Licensing Technician

The Tennessee Department of Commerce and Insurance is committed to principles of equal opportunity, equal access, and affirmative action. Contact the EEO Coordinator or ADA Coordinator (615) 741-0481, for TDD (615) 741-7190.

Tennessee Department of Commerce and Insurance Authorization No. 335311 Revised March 2004. This public document was promulgated for 2,500 per issue, at a cost of 41 cents per copy.

Violations:

T.C.A. §62-39-329

USPAP Violations

Consent Order:

Civil Penalty of \$300.00

Rex McCarty

Gate City, VA

Violations:

T.C.A. § 62-39-103(a)

Unlicensed Practice

Consent Order:

Civil Penalty of \$500.00

Tim Brothers, CR-1410

Brentwood, TN

Violations:

T.C.A. §62-39-329

USPAP Violations

Consent Order:

Civil Penalty of \$500.00

Wayne Boykin, CR-1315

Lebanon, TN

Violations:

T.C.A. §62-39-329

USPAP Violations

Consent Order:

Civil Penalty of \$300.00

James C. Davenport, CR-1312

Stephanie Davenport, TR-2292

Chatsworth, GA

Violations:

T.C.A. §62-39-329

USPAP Violations

Consent Order:

Civil Penalty of \$1,000.00

William W. Wilkinson, LI-1166

Memphis, TN

Violations:

T.C.A. §62-39-329

USPAP Violations

Consent Order:

Civil Penalty of \$1,000.00

Basil E. Smith, LI-202

Dyersburg, TN

Violations:

T.C.A. §62-39-329

USPAP Violations

Civil Penalty of \$500.00

DISCIPLINARY ACTION REPORT

Elizabeth Norris, CR-948

Chattanooga, TN

TENNESSEE REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
SUITE 620
NASHVILLE, TENNESSEE 37243-1166